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Attorneys for
 RICOH COMPANY, LTD.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

SYNOPSISYS, INC.,

Plaintiff,

v.

RICOH COMPANY, LTD.,

Defendant.

RICOH COMPANY, LTD.,

Plaintiff,

v.

AEROFLEX INCORPORATED, et al.,

Defendants

CASE NO. C-03-2289-MJJ (EMC)

CASE NO. C-03-4669-MJJ (EMC)

**RICOH'S EX PARTE MOTION TO
 EXPEDITE RICOH'S MOTION FOR
 PROTECTIVE ORDER UNDER RULE 26(c)
 PRECLUDING DEFENDANTS' UNTIMELY
 AND OVERBROAD DISCOVERY
 REQUESTS AND SUBPOENAS**

Date: TBD

Time: TBD

Courtroom: C

1 Ricoh requests an expedited hearing on August 18, 2006, at a time convenient for the Court, on
2 its Motion for Protective Order Under Rule 26(c) Precluding Defendants' Untimely and Overbroad
3 Discovery Requests and Subpoenas, filed August 17, 2006. Because of the refusal by Synopsys and the
4 Aeroflex defendants ("defendants") to agree to defer this dispute until Judge Chen's return on August,
5 28, 2006, Ricoh has no choice but to present this motion.

6 On August 14, 2006, more than two months after the close of fact discovery and only four days
7 before the close of expert discovery, Synopsys and the Aeroflex defendants ("defendants") demanded a
8 broad range of new discovery requests upon Ricoh, including "all course syllabi, handouts, outlines,
9 digests, lecture notes, presentations, computer code, and demonstrative software and hardware created
10 for all courses that Dr. Papaefthymiou has taught at the university level" (hereinafter referred to as "Dr.
11 Papaefthymiou's course-related work"). (Brothers Dec. Ex. 1). This demand was made after the
12 completion of the deposition of Dr. Papaefthymiou. Also on August 14, defendants purported to serve
13 broad subpoenas for the same types of documents on (i) the University of Michigan, where Dr.
14 Papaefthymiou serves as a full professor, (ii) Yale University, where he was formerly an assistant
15 professor, and (iii) the Massachusetts Institute of Technology where he conducted his PhD studies.
16 (Brothers Dec. ¶ 2, Ex. 2-4). The return date for these subpoenas was four days from the date of
17 issuance – August 18, 2006. Upon receipt of the discovery request and subpoenas, counsel for Ricoh
18 requested a meet and confer. Defendants' counsel responded with a refusal to meet and confer until
19 after the return date. (Brothers Dec. ¶ 3, Ex. 5).

20 Judge Chen had previously issued specific procedures prior to presenting discovery issues, and
21 also had endorsed informal joint letters. On August 15, counsel for Ricoh telephoned Judge Chen's
22 clerk with a procedural question of how to proceed – whether by joint letter or by formal ex parte
23 motion – given the Court's prior guidance. Judge Chen had also had his clerk facilitate and participate
24 in meet and confers between counsel. Judge Chen's clerk asked to get defendants' counsel on the
25 phone, and advised defendants' counsel that that Magistrate Judge Chen would be unavailable between
26 August 17 and 27, and would be unable to hear an ex parte motion or merits motion until he returned.
27 Judge Chen's clerk suggested that the parties agree to extend the return date of their subpoenas until
28 after Judge Chen returned. Counsel for Ricoh agreed to this proposal on Ricoh's behalf, but defendants'

1 counsel refused to so agree. Judge Chen's clerk advised counsel for the parties that, in the absence of
2 such an agreement, Ricoh would need to file a formal motion to quash and an ex parte motion to shorten
3 time, and that it likely would be forwarded to Judge Jenkins. (Brothers Dec. ¶ 4.) After the conference
4 call with Judge Chen's clerk, defendants' counsel advised counsel for Ricoh that defendants continued
5 to refuse to extend the return date of the subpoenas, and that defendants insisted that the matter be
6 presented in a motion to quash and an ex parte motion to expedite. (Brothers Dec. ¶ 5). Ricoh hereby
7 moves for a protective order under Rule 26(c).¹

8 Ricoh believes that defendants, having repeatedly failed to delay the trial through their motion
9 practice, are similarly attempting to delay the trial through the current requests. (Brothers Dec. ¶ 6).
10 Because defendants refuse to agree to defer the return date of their subpoenas for even two weeks, Ricoh
11 requests an expedited hearing on its Motion for Protective Order Under Rule 26(c) filed August 17,
12 2006.

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28 ¹ Ricoh understands that its motion to quash, filed August 15, 2006, was denied by Judge Chen solely for lack of jurisdiction under Rule 45.

Dated: August 17, 2006

RICOH COMPANY, LTD.

By: /s/ Kenneth W. Brothers

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RICOH COMPANY, LTD.,

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AEROFLEX INCORPORATED, et al.,

Defendants

**[PROPOSED] ORDER GRANTING RICOH'S
EX PARTE MOTION TO EXPEDITE
RICOH'S MOTION FOR A PROTECTIVE
ORDER UNDER RULE 26(c) TO PRECLUDE
DEFENDANTS' UNTIMELY AND
OVERBROAD DISCOVERY REQUESTS
AND SUBPOENAS**

Upon consideration of RICOH'S EX PARTE MOTION TO EXPEDITE RICOH'S MOTION FOR A PROTECTIVE ORDER UNDER RULE 26(c) TO PRECLUDE DEFENDANTS' UNTIMELY AND OVERBROAD DISCOVERY REQUESTS AND SUBPOENAS, and supporting evidence, Defendants' Opposition, and supporting evidence, and any reply and additional argument, and having conducted a hearing on the motions, and the Court being fully advised of the premises, the Court hereby GRANTS RICOH'S EX PARTE MOTION TO EXPEDITE RICOH'S MOTION FOR A PROTECTIVE ORDER UNDER RULE 26(c) TO PRECLUDE DEFENDANTS' UNTIMELY AND OVERBROAD DISCOVERY REQUESTS AND SUBPOENAS.

The return date of the subpoenas are suspended until the Court shall resolve the merits of the motion. Defendants are required to submit a brief on the merits by no later than _____. Ricoh shall submits its reply by no later than _____. The Court shall schedule any hearing by further order.

IT IS SO ORDERED.

DATED: _____

The Honorable Edward Chen
Magistrate Judge, United States District Court